

Appl. No. 10/597,780  
Amendment Dated April 28, 2009  
Reply to Office Action of February 12, 2009

Amendments to the Drawings:

The attached sheet of drawing includes changes to Fig. 5. This sheet, which includes Fig. 5, replaces the original sheet including Fig.5. In Fig. 5, reference number 19 was changed to 20a.

Attachment: Replacement Sheet  
Annotated Sheet Showing Changes

Appl. No. 10/597,780  
Amendment Dated April 28, 2009  
Reply to Office Action of February 12, 2009

Remarks:

Reconsideration of the application is requested. Claims 1-17 are now in the application. Claim 1 has been amended. Claims 16-17 have been added.

Claim 1 has been amended to correct an indefinite term. The claim has not been amended for the statutory requirement relating to the prior art.

Drawings:

In item 1 of the Office action, the Examiner objected to the drawings because the reference number "19" was used to designate both thread and outlet opening.

Fig. 5 has been amended. The reference number "19" in Fig. 5 has been replaced with reference number "20a". Likewise, the text of the specification on pages 2, 3, and 5 has been amended to change 19 to 20a.

Accordingly, the drawings and specification consistently use one and only one reference number for each part as required by 37 CFR 1.84(p)(4).

In item 2 of the Office action, the Examiner objected to the drawings for not showing all of the features named in the claims: in particular, the membrane described in claims 11 and 12. Claims 11 and 12 are canceled. Accordingly, the objection is moot and the drawings comply with 37 CFR 1.84(a).

35 USC § 112

In item 6 of the above-identified Office action, the Examiner has rejected claims 11-12 as not complying with the enablement requirement under 35 U.S.C. § 112, first paragraph. More specifically, the Examiner has stated that the claimed terms "membrane" and "sharp point" were not shown in the drawing.

Claims 11 and 12 have been canceled. Accordingly, the rejection is moot.

Accordingly, the specification and the claims meet the requirements of 35 U.S.C. § 112, first paragraph. Should the Examiner find any such rejections, counsel would appreciate a telephone call during which the matter may be resolved. The changes are neither provided for overcoming the prior art nor do they narrow the scope of the claim for any reason related to the statutory requirements for a patent.

35 USC § 103

In item 11 of the Office action, the Examiner rejected claims 1 and 3 as being obvious over Copp, Jr. (US Patent No. 6,435,426) in view of Schultz (US Patent No. 2,721,004) under 35 U.S.C. § 103(a). As will be explained below, the claims were patentable over the cited art in their original form and the claims have, therefore, not been amended to overcome the references.

Before discussing the prior art in detail, a brief review of the invention as claimed is provided. Claim 1 calls for a fluid reservoir for a paint spray gun having the following features:

a receptacle (1) and a lid (2) that can be placed thereon, which has a connecting element (3) in order to place the fluid reservoir on the paint spray gun or an adapter, wherein receptacle (1) has a ventilation part (4) that can be closed by means of a valve, characterized in that the valve comprises a valve housing (10) arranged on the container and a corresponding closure element (5), and has two valve seats arranged one behind the other in the direction of flow, wherein closure element (5) can be displaced relative to valve housing (10) between a first valve position, in which ventilation part (4) is closed off, and a second valve position, in which an equalization of pressure between the interior of receptacle (1) and the environment is made possible, and can be fixed in the first valve position and in the second valve position on valve housing (10) via a snap fit or gripping element.

Copp, Jr. '426 does not disclose all of the features attributed to it in the Office action. In the fluid reservoir of Copp, Jr. '426, the connecting element (fitting 14) for connecting the fluid reservoir on a paint spray gun is arranged at the bottom of the receptacle (cup 10; *see* Fig. 1). Accordingly, the fluid reservoir of Copp, Jr. '426 does not teach or such all of the features of claim 1: namely, that the connecting element is arranged on the lid (2).

Another feature of claim 1 of the instant application not taught by the prior art is that, "The receptacle has a ventilation part." In the fluid reservoir of Copp, Jr. '426, which has a ventilation

part (opening 32), the ventilation part (32) is not arranged on the receptacle (as it is the case in the claimed subject matter), but in the lid (30); *see* Fig. 1 of Copp, Jr. '426 and col. 4, ll 46-48. So because, the fluid reservoir of Copp, Jr. '426 does not teach or suggest all of the features of claim 1, the prior art does not form a *prima facie* case of obviousness.

Although the ventilation opening (32) of the fluid reservoir of Copp, Jr. '426 is closable by means of a valve (port adapter fitting 26), the fluid reservoir of Copp, Jr. '426 has no valve housing arranged on the container.

For these reasons, Applicants believe that Copp, Jr. '426 is not closest prior art reference. Applicants believe that prepublished document WO98/32539, mentioned in the second paragraph of the specification, is the closest prior art reference. According to WO98/32539, a fluid reservoir for a spray gun is shown. The fluid reservoir includes a receptacle and a lid, whereby a connection element for connecting the fluid reservoir on the spray gun is arranged on the lid and a ventilation part is arranged in the bottom of the receptacle. WO98/32539 does not disclose all of the features of claim 1 of the instant application: in particular, the valve for closing the ventilation part.

In item 13 of the Office action, the Examiner argues that Schultz '004 discloses a closure element having two seats that slide up and are fixed in the first and second valve position by a snap fit using gripping elements (external threads 11, 12). Applicants disagree with this analysis.

Schultz '004 teaches a closure element for closing the main opening (port B) of a tube (A). The closure element (20) of Schultz '004 is movable between a first position, in which the closure element (20) closes the main opening (B), and a second position, in which the main opening (B) is open (as shown in Figs. 1-2 of Schultz '004). However, the closing element (20) is neither fixed in the first position nor in the second position "by a snap fit." In the first valve position, the closure element (2) is unscrewed and screw threads 23 are disengaged from screw threads 11) and is raised upwardly when pressure is applied to the tube body until the threads (23) on the closure element (cap 10) contacts the threads 23 are disengaged from screw threads (23) on the closure element (cap 10) contacts the threads (12) at the upper end of the tube neck. In this

position, there is no snap fit of the closure element (cup 20) at the neck (10); *see* col. 2 of Schultz, II 22-28. In particular, column 2 of Schultz, II 29-34 teaches that in the preferred embodiment there is no engagement of threads (23) on the closure element (cup 20) with the threads (12) on the upper end of the neck portion. The closure element (cup 20) with the threads (12) on the upper end of the neck portion. The closure element (cup 20) is held in the first valve portion simply by the pressure of the tube maintaining the cup (2) in an elevated position so as to fully open the main opening (discharge port B) of the tube. Also, in the second valve position, the closure element (cup 20) is not fixed at the neck (10) by a snap fit. The closure element (cup 20) is rather fixed at the neck (10) by an engagement of the thread (23) on cup (20) with the threads (11) at the base of the neck (10). A thread engagement, however, is not the same as a snap fit engagement, as described in claim 1 of the instant application.

Because Copp, Jr. '426 in view of Schultz '002 does not teach or suggest all of the features of the invention according to claim 1 of the instant application, the invention according to claim 1 is not obvious and is patentable.

In addition to the teaching of the prior art, one with ordinary skill in the art would not combine the teachings of Copp, Jr. '426 with Schultz '002. Schultz '002 shows a closure for a collapsible container for closing the main opening of the container: namely, the discharge port (B) of a tube (A). In contrast, according to the invention of the instant application, a valve has two valve seats for closing a ventilation opening in the receptacle. Therefore, Schultz '002 does not give a teaching on how to close a ventilation opening in a receptacle of a fluid reservoir for a spray gun.

In items 15-25, the Examiner rejected claims 2, 4-10, and 13-15 in light of various combinations. All of these claims ultimately depend on claim 1. These claims are patentable over the prior art for the same reasons as claim 1.

Claims 16-17 have been added. These claims are based on claim 1 and describe the invention in more customary U.S. idiom.

Appl. No. 10/597,780  
Amendment Dated April 28, 2009  
Reply to Office Action of February 12, 2009

In view of the foregoing, reconsideration and allowance of claims 1-10 and 13-17 are solicited. In the event the Examiner should still find any of the claims to be unpatentable, please telephone counsel so that patentable language can be substituted.

If an extension of time for this paper is required, petition for extension is herewith made.

No fee is believed due. However, please charge any required fee (or credit any overpayments of fees) to the Deposit Account of the undersigned, Account No. 500601 (Docket No. 7400-X06-163)

Respectfully submitted,

/Loren D. Pearson/

Loren Donald Pearson, Reg. No. 42,987  
Martin Fleit, Reg. No. 16,900

Customer Number: 27317

FLEIT GIBBONS GUTMAN BONGINI & BIANCO, P.L.  
21355 East Dixie Highway  
Suite 115  
Miami, FL 33180  
Tel: 305-830-2600  
Fax: 305-830-2605  
e-mail: LPearson@FGGBB.com